

108TH CONGRESS  
1ST SESSION

# S. 1686

To reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2003

Mr. GRASSLEY (for himself, Ms. LANDRIEU, Mr. BUNNING, Mr. ROCKEFELLER, Mr. CRAIG, Mr. BAUCUS, Mr. DEWINE, Mr. LEVIN, Mr. INHOFE, Mr. NELSON of Nebraska, Mrs. LINCOLN, Mrs. CLINTON, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Adoption Promotion  
5       Act of 2003”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) In 1997, the Congress passed the Adoption  
2           and Safe Families Act of 1997 to promote com-  
3           prehensive child welfare reform to ensure that con-  
4           sideration of children’s safety is paramount in child  
5           welfare decisions, and to provide a greater sense of  
6           urgency to find every child a safe, permanent home.

7           (2) The Adoption and Safe Families Act of  
8           1997 also created the Adoption Incentives program,  
9           which authorizes incentive payments to States to  
10          promote adoptions, with additional incentives pro-  
11          vided for the adoption of foster children with special  
12          needs.

13          (3) Since 1997, all States, the District of Co-  
14          lumbia, and Puerto Rico have qualified for incentive  
15          payments for their work in promoting adoption of  
16          foster children.

17          (4) Between 1997 and 2002, adoptions in-  
18          creased by 64 percent, and adoptions of children  
19          with special needs increased by 63 percent; however,  
20          542,000 children remain in foster care, and 126,000  
21          are eligible for adoption.

22          (5) Although substantial progress has been  
23          made to promote adoptions, attention should be fo-  
24          cused on promoting adoption of older children. Re-

1 cent data suggest that half of the children waiting  
 2 to be adopted are age 9 or older.

3 **SEC. 3. REAUTHORIZATION OF ADOPTION INCENTIVE PAY-**  
 4 **MENTS PROGRAM.**

5 (a) IN GENERAL.—Section 473A of the Social Secu-  
 6 rity Act (42 U.S.C. 673b) is amended—

7 (1) in subsection (b)—

8 (A) by striking paragraph (2) and insert-  
 9 ing the following:

10 “(2)(A) the number of foster child adoptions in  
 11 the State during the fiscal year exceeds the base  
 12 number of foster child adoptions for the State for  
 13 the fiscal year; or

14 “(B) the number of older child adoptions in the  
 15 State during the fiscal year exceeds the base number  
 16 of older child adoptions for the State for the fiscal  
 17 year;”;

18 (B) in paragraph (4), by striking “and  
 19 2002” and inserting “through 2007”; and

20 (C) in paragraph (5), by striking “2002”  
 21 and inserting “2007”;

22 (2) in subsection (c), by striking paragraph (2)  
 23 and inserting the following:

24 “(2) DETERMINATION OF NUMBERS OF ADOP-  
 25 TIONS BASED ON AFCARS DATA.—The Secretary

1 shall determine the numbers of foster child adop-  
 2 tions, of special needs adoptions that are not older  
 3 child adoptions, and of older child adoptions in a  
 4 State during each of fiscal years 2002 through  
 5 2007, for purposes of this section, on the basis of  
 6 data meeting the requirements of the system estab-  
 7 lished pursuant to section 479, as reported by the  
 8 State and approved by the Secretary by August 1 of  
 9 the succeeding fiscal year.”;

10 (3) in subsection (d)(1)—

11 (A) in subparagraph (A), by striking  
 12 “and”;

13 (B) in subparagraph (B)—

14 (i) by inserting “that are not older  
 15 child adoptions” after “adoptions” each  
 16 place it appears; and

17 (ii) by striking the period and insert-  
 18 ing “; and”; and

19 (C) by adding at the end the following:

20 “(C) \$4,000, multiplied by the amount (if  
 21 any) by which the number of older child adop-  
 22 tions in the State during the fiscal year exceeds  
 23 the base number of older child adoptions for the  
 24 State for the fiscal year.”;

25 (4) in subsection (g)—

1 (A) in paragraph (3), by striking subpara-  
2 graphs (A) and (B) and inserting the following:

3 “(A) with respect to fiscal year 2003, the  
4 number of foster child adoptions in the State in  
5 fiscal year 2002; and

6 “(B) with respect to any subsequent fiscal  
7 year, the number of foster child adoptions in  
8 the State in the fiscal year for which the num-  
9 ber is the greatest in the period that begins  
10 with fiscal year 2002 and ends with the fiscal  
11 year preceding that subsequent fiscal year.”;

12 (B) in paragraph (4)—

13 (i) in the paragraph heading, by in-  
14 serting “THAT ARE NOT OLDER CHILD  
15 ADOPTIONS” after “ADOPTIONS”; and

16 (ii) by striking subparagraphs (A) and  
17 (B) and inserting the following:

18 “(A) with respect to fiscal year 2003, the  
19 number of special needs adoptions that are not  
20 older child adoptions in the State in fiscal year  
21 2002; and

22 “(B) with respect to any subsequent fiscal  
23 year, the number of special needs adoptions  
24 that are not older child adoptions in the State  
25 in the fiscal year for which the number is the

1           greatest in the period that begins with fiscal  
 2           year 2002 and ends with the fiscal year pre-  
 3           ceding that subsequent fiscal year.”; and

4           (C) by adding at the end the following:

5           “(5) BASE NUMBER OF OLDER CHILD ADOPT-  
 6           TIONS.—The term ‘base number of older child adop-  
 7           tions for a State’ means—

8           “(A) with respect to fiscal year 2003, the  
 9           number of older child adoptions in the State in  
 10          fiscal year 2002; and

11          “(B) with respect to any subsequent fiscal  
 12          year, the number of older child adoptions in the  
 13          State in the fiscal year for which the number is  
 14          the greatest in the period that begins with fiscal  
 15          year 2002 and ends with the fiscal year pre-  
 16          ceding that subsequent fiscal year.

17          “(6) OLDER CHILD ADOPTIONS.—The term  
 18          ‘older child adoptions’ means the final adoption of a  
 19          child who has attained 9 years of age if—

20          “(A) at the time of the adoptive placement,  
 21          the child was in foster care under the super-  
 22          vision of the State; or

23          “(B) an adoption assistance agreement  
 24          was in effect under section 473 with respect to  
 25          the child.”;

1 (5) in subsection (h)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (B), by striking  
4 “and”;

5 (ii) in subparagraph (C), by striking  
6 the period and inserting “; and”; and

7 (iii) by adding at the end the fol-  
8 lowing:

9 “(D) \$43,000,000 for each of fiscal years  
10 2004 through 2008.”; and

11 (B) in paragraph (2)—

12 (i) by inserting “, or under any other  
13 law for grants under subsection (a),” after  
14 “(1)”; and

15 (ii) by striking “2003” and inserting  
16 “2008”;

17 (6) in subsection (i)(4), by striking “1998  
18 through 2000” and inserting “2004 through 2006”;  
19 and

20 (7) by striking subsection (j).

21 (b) REPORT ON ADOPTION AND OTHER PERMA-  
22 NENCY OPTIONS FOR CHILDREN IN FOSTER CARE.—Not  
23 later than October 1, 2004, the Secretary of Health and  
24 Human Services shall submit to the Committee on Ways  
25 and Means of the House of Representatives and the Com-

1 mittee on Finance of the Senate a report on State efforts  
 2 to promote adoption and other permanency options for  
 3 children in foster care, with special emphasis on older chil-  
 4 dren in foster care. In preparing this report, the Secretary  
 5 shall review State waiver programs and consult with rep-  
 6 resentatives from State governments, public and private  
 7 child welfare agencies, and child advocacy organizations  
 8 to identify promising approaches.

9 **SEC. 4. AUTHORITY TO IMPOSE PENALTIES FOR FAILURE**  
 10 **TO SUBMIT AFCARS REPORT.**

11 Section 474 of the Social Security Act (42 U.S.C.  
 12 674) is amended by adding at the end the following:

13 “(f)(1) If the Secretary finds that a State has failed  
 14 to submit to the Secretary data, as required by regulation,  
 15 for the data collection system implemented under section  
 16 479, the Secretary shall, within 30 days after the date  
 17 by which the data was due to be so submitted, notify the  
 18 State of the failure and that payments to the State under  
 19 this part will be reduced if the State fails to submit the  
 20 data, as so required, within 6 months after the date the  
 21 data was originally due to be so submitted.

22 “(2) If the Secretary finds that the State has failed  
 23 to submit the data, as so required, by the end of the 6-  
 24 month period referred to in paragraph (1) of this sub-  
 25 section, then, notwithstanding subsection (a) of this sec-



tion and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

“(A)  $\frac{1}{6}$  of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

“(B)  $\frac{1}{4}$  of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.”.

**SEC. 5. EFFECTIVE DATE.**

The amendments made by this Act shall take effect on October 1, 2003.

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